

D-10

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Land Division  
Honolulu, Hawaii 96813

April 13, 2006

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

PSF No: 04OD-327  
OAHU

Rescind Prior Board Action of December 10, 2004 (Item D-22),  
Conveyance of State Lands for Proposed Kuakini Street  
Extension Road to the City and County of Honolulu and  
Issuance of a Construction and Management Right-of-Entry,  
Kapalama, Oahu, Tax Map Key: (1) 1-6-9:1 and Portion of  
Proposed Kuakini Street Extension Road

BACKGROUND:

At its December 10, 2004 meeting, under Item D-22, the Land Board approved the conveyance of State lands to the City and County of Honolulu for the City's Department of Transportation Services for their Proposed Kuakini Street Extension Project. The project involves the construction of a 4-way intersection at Kuakini Street and Lanakila Avenue. (Exhibit A) The Boards approval also included a construction and management right-of-entry to be issued to the City.

Months passed. The community has been complaining to every State and City office, that the State land was not being maintained. The grass is overgrown, littered with abandoned vehicles, drug dealing, dumping, lady living in a car, etc. Although there is a right-of-entry approved by the Land Board in December 2004 and signed by the former City Director in March 2005, who's responsibility to maintain has been going back and forth, between the State and City. The City has claimed because they do not have the deed from the State, they are not responsible for maintaining the State land. It should be noted, the City has not submitted the survey maps and description for the State to do the deed.

REMARKS:

On March 31, 2006, staff met with City Director Melvin Kaku from the Department of Transportation Services and Mr. Reid Yamashiro, Deputy Corporation Counsel to inquire if the City was going to proceed with the Project. Mr. Kaku indicated this Project does not meet the Mayor's three (3) points, is under funded (short \$800,000) and is a low priority due to other emergencies. The City would consider an easement without the remnants. Maintenance of the remnants would cost for the City. Staff informed Mr. Kaku the remnants should not

be left behind for the State to maintain. Recent events have occurred whereby the City staff is telling the State as owner of the adjacent property, the State is responsible for the safety of the City road and the State has to mitigate the rock fall, cut trees, etc. Whereas the State Department of Transportation purchases the adjacent property or obtains easements to protect their road and the motorist. Examples are Castle Junction and Makapu.

Unfortunately, this is a messy topic with no simple conclusion for both parties. Our meeting ended with the understanding the State would recommend to the Land Board rescinding its December 2004 approval, the State would step in and secure and maintain the State property, and should the City resurrect the Kuakini Extension Project, a request would be submitted to the Land Board for consideration.

Senator Suzanne Chun-Oakland, Representative Corrine Ching, Councilman Rod Tam, and other community stakeholders were notified.

RECOMMENDATION: That the Board:

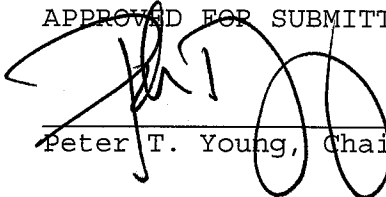
1. Rescind the prior Board action of December 10, 2004, under agenda item D-22.

Respectfully Submitted,



Charlene E. Unoki  
Assistant Administrator

APPROVED FOR SUBMITTAL:

  
\_\_\_\_\_  
Peter T. Young, Chairperson

# EXHIBIT "A"

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Land Division  
Honolulu, Hawaii 96813

December 10, 2004

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

PSF No.: 040D-327

OAHU

Conveyance of State Lands for Proposed Kuakini Street Extension Road to the City and County of Honolulu and Issuance of a Construction and Management Right-of-Entry, Kapalama, Oahu, Tax Map Key: (1) 1-6-9:1 and Portion of Proposed Kuakini Street Extension Road.

APPLICANT:

City and County of Honolulu whose business and mailing address is 250 South King Street, Honolulu, Hawaii 96813.

LEGAL REFERENCE:

Sections 171-95(a)(5) and 264-2, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Kapalama situated at Honolulu, Oahu, identified by Tax Map Key: (1) 1-6-9:1 and the unconveyed portion of the proposed Kuakini Street Extension Road, as shown on the attached map labeled Exhibit A as the hatched area.

AREA:

To be determined by survey.

ZONING:

State Land Use District: Urban  
City & County of Honolulu CZO: R-5

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: YES \_\_\_\_ NO x

APPROVED BY THE BOARD OF  
LAND AND NATURAL RESOURCES  
AT ITS MEETING HELD ON  
December 10, 2004

ITEM D-22

Our staff abstractor has determined the portion that already exists on ground was transferred from the State to the City pursuant to Section 264-2, HRS, and Resolution No. 93-287, CD-1 FD-1 (see Exhibit B).

Therefore, staff is requesting a quitclaim deed for those portions of State land not currently owned by the City, including all of Parcel 1 and the portion of the Proposed Kuakini Street Extension that has not yet been conveyed to the City (these portions are shown as the hatched area on Exhibit A). This action will allow the City to construct and realign the roadway and provide the necessary landscaping and open space to address safety concerns for cars and pedestrians.

Staff is requesting the issuance of a construction and management right-of-entry to give the City control over the State's property so they can complete the construction in a timely manner for the community.

RECOMMENDATION:

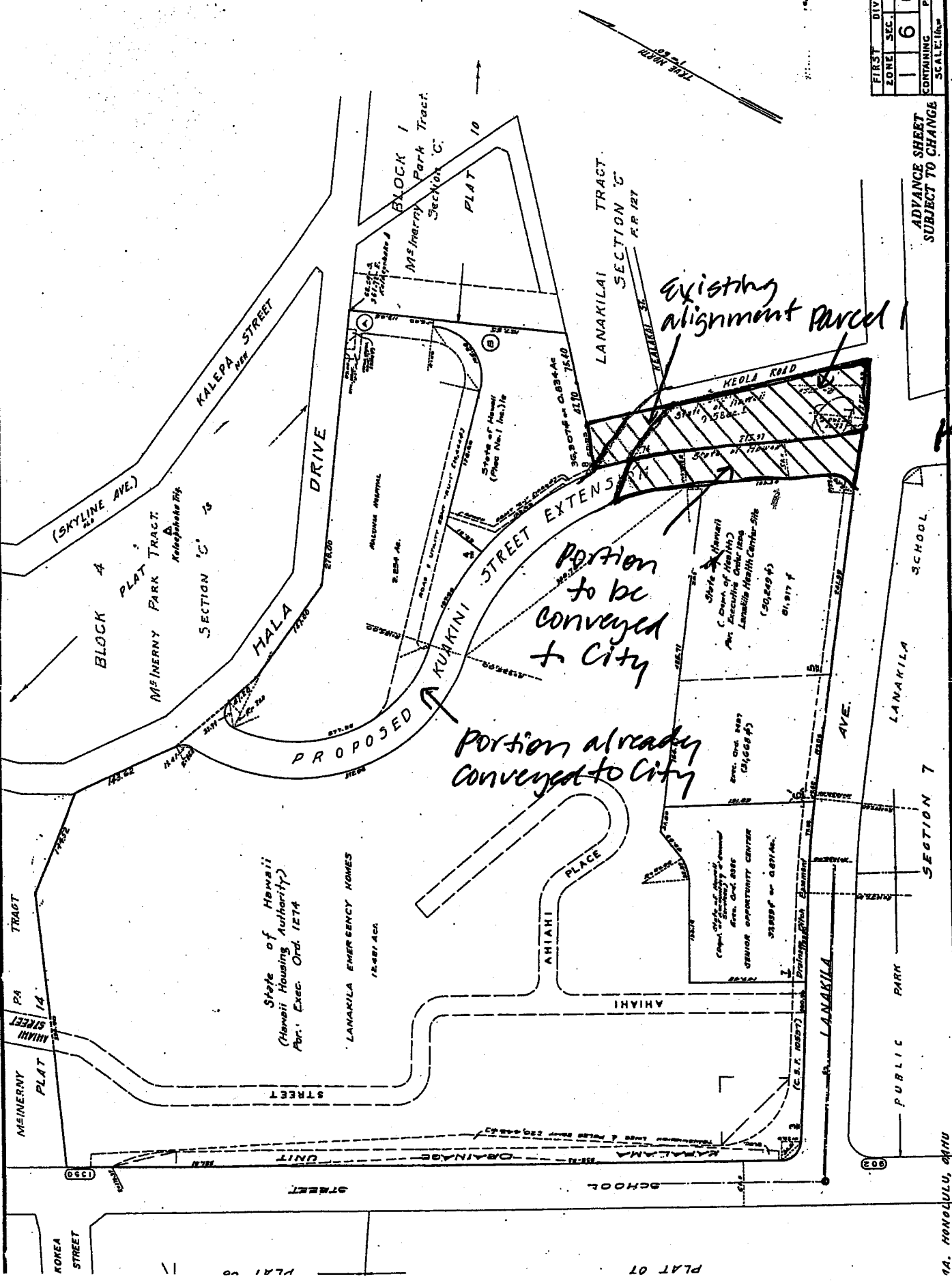
1. That the Board, subject to the Applicant fulfilling all of the Applicant requirements listed above authorize the conveyance to the City and County of Honolulu covering the subject area under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
  - a. The standard terms and conditions of the most current land patent grant or deed form, as may be amended from time to time;
  - b. Review and approval by the Department of the Attorney General; and
  - c. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
2. Authorize the issuance of a construction and management right-of-entry permit to City and County of Honolulu covering the subject area under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
  - a. The standard terms and conditions of the most current right-of-entry permit form, as may be amended from time to time and
  - b. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

# EXHIBIT "A"

FIRST	DIVISION
ZONE	SEC.
1	6
09	
ADVANCE SHEET	CONTAINING PARCELS
SUBJECT TO CHANGE	SCALE 1" = 60' ft

PRINTED

EXHIBIT A



Kukini Street

ADVANCE SHEET  
SUBJECT TO CHANGE

LANAKILA SCHOOL

PUBLIC PARK

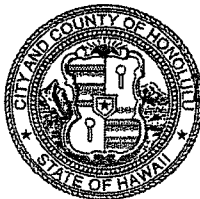
LANAKILA

PLAT 07

5174

DEPARTMENT OF TRANSPORTATION SERVICES  
**CITY AND COUNTY OF HONOLULU** **EXHIBIT "B"**  
HONOLULU MUNICIPAL BUILDING, 650 SOUTH KING STREET, 3<sup>RD</sup> FLOOR, HONOLULU, HAWAII 96813  
TELEPHONE: (808)523-4529 • FAX: (808)523-4730 • INTERNET: [www.cc.honolulu.hi.us](http://www.cc.honolulu.hi.us)

MUFI HANNEMANN  
MAYOR



RECEIVED  
2005 MAR 28 A 9:55  
05 MAR 28 A 9:34  
DEPT. OF LAND & NATURAL RESOURCES  
STATE OF HAWAII

EDWARD Y. HIRATA  
DIRECTOR  
DART 25905  
TE-93053  
TS05.026

LD

March 22, 2005

Mr. Dan Davidson  
Deputy Director  
Land Division  
Department of Land and Natural Resources  
State of Hawaii  
P. O. Box 621  
Honolulu, Hawaii 96813

Attention: Ms. Charlene E. Unoki, Assistant Administrator

Dear Mr. Davidson:

Subject: Your Reference No. 04OD-327  
Conveyance of State Lands for the Proposed Kuakini Street Extension  
Project and Issuance of Construction and Management Right of Entry

We concur with and return the subject letter for your files as requested. The Department of Design and Construction, along with our consultant, The Limtiaco Consulting Group, will be preparing the necessary maps and subdivision documents for conveyance. They will contact DAGS for further requirements.

Sincerely,

EDWARD Y. HIRATA  
Director

cc: Department of Design and Construction – Land Division  
The Limtiaco-Consulting Group

RECEIVED  
LAND DIVISION  
2005 MAR 28 A 10:07



EXHIBIT "B" TE 1264-87294

T504.288

PETER T. YOUNG  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

DAN DAVIDSON  
DEPUTY DIRECTOR - LAND

YVONNE Y. IZU  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
LAND DIVISION

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

December 13, 2004

Ref. No.: 04-00-327

Mr. George Miyamoto, Director  
City and County of Honolulu  
Department of Transportation Services  
650 South King Street 3<sup>rd</sup> Floor  
Honolulu, Hawaii 96813

Dear Mr. Miyamoto:

Subject: Conveyance of State Lands for Proposed Kuakini Street Extension Road to the City and County of Honolulu and Issuance of Construction and Management Right-of-Entry, Kapalama, Oahu, Tax Map Key: (1) 1-6-9:1 and Portion of Proposed Kuakini Street Extension Road

We are pleased to inform you that at its meeting of December 10, 2004, under agenda item D-22 (copy enclosed), the Board of Land and Natural Resources approved your request for the conveyance of State lands for the Proposed Kuakini Street Extension Road.

The Board's approval allows your consultant to begin the subdivision approval process with the County. Upon subdivision approval, please provide us with a CAD map, together with metes and bounds description, of the leased area in accordance with the enclosed DAGS Survey Division CAD Mapping Standards. Please note that this map and description must be prepared by a licensed surveyor.

The Board also granted a construction and management right-of-entry to the City and County of Honolulu pursuant to the following the terms and conditions:

1. The City and/or its contractors, shall indemnify, defend and hold the State of Hawaii, Department of Land and Natural Resources, harmless from and against any loss, liability, claim or demand for property damage, personal injury, and death arising out of any act or omission of the City and/or its contractors under this approval or relating to or connected with the granting of this approval.

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DEC 15 11:09  
DIRECTOR'S OFFICE  
TRANSPORTATION SERVICES

2. The City shall insure that its contractors, shall procure, at their own expense, and maintain during the entire period of this right-of-entry, from an insurance company or companies licensed to do business in the State of Hawaii, a policy or policies of comprehensive public liability insurance, in an amount acceptable to the Department (\$500,000 per incident/\$1,000,000 aggregate) insuring the State of Hawaii against all claims for personal injury, death, and property damage; that said policy shall, cover the entire right-of-entry area, including all improvements and grounds and all roadways or sidewalks on or adjacent to the said right-of-entry area in the control or use by the City and/or its contractors.
3. The City and/or its contractors shall comply with all applicable statutes, ordinances, rules and regulations of the Federal, State, and County governments relative to the rights granted herein.
4. The City and/or its contractors shall not cause or permit the escape, disposal or release of any hazardous materials except as permitted by law. The City and/or its contractors shall not allow the storage or use of such materials in any manner not sanctioned by law or by the highest standards prevailing in the industry for the storage and use of such materials, nor allow to be brought onto the right-of-entry area any such materials except to use in the ordinary course of business of the City and/or its contractors, and then only after written notice is given to the State of the identity of such materials and upon the State's consent which may be withheld at the States sole and absolute discretion. If any lender or governmental agency shall ever require testing to ascertain whether or not there has been any release of hazardous materials by the City and/or its contractors, then the City and/or its contractors shall be responsible for the reasonable cost thereof. In addition, the City and/or its contractors shall execute affidavits, representations and the like from time to time at the State's request concerning the best knowledge and belief of the City and/or its contractors regarding the presence of hazardous materials on the right-of-entry area placed or released by the City and/or its contractors.
5. The City and/or its contractors agree to indemnify, defend, and hold the State harmless, from any damages and claims resulting from the release of hazardous materials on the right-of-entry area occurring while the City and/or its contractors is in possession, or elsewhere if caused by the City and/or its contractors. These covenants shall survive the expiration or earlier termination of this right-of-entry.

For purposes of this "hazardous material" shall mean any pollutant, toxic substance, hazardous waste, hazardous substance, or oil as defined in or pursuant to the Resource Conservation and Recovery Act, as amended, the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, the Federal Clean Water Act, or any ordinance, rule, or by-law, whether existing as of the date hereof, previously enforced, or subsequently enacted.



6. In the event any unanticipated sites or remains such as bone or charcoal deposits, human burials, rock or coral alignments, pavings or walls are encountered the City and/or its contractors shall stop work and contact the State Historic Preservation Division in Kapolei at (808) 692-8015 immediately.
7. The Department of Land and Natural Resources reserves the right to impose additional, but responsible terms and conditions at any time it deems necessary while this right-of-entry is in force.

Should you concur with the above terms and conditions, please acknowledge and return a signed copy of this letter to my Oahu District Land Office.


If your staff has questions regarding the preparation of the survey map, please contact DAGS Survey Division at (808) 586-0380. If there are any other questions, please feel free to call my office at 587-0426. Thank you.

Sincerely,



Charlene E. Unoki  
Assistant Administrator

WE CONCUR:

  
\_\_\_\_\_  
City and County of Honolulu  
Department of Transportation Services

3/22/05  
Date

Enclosure

cc: Central Files  
District Files